

REMARKS

Reconsideration of all grounds of rejections, and allowance of the pending claims are respectfully requested in light of the above amendments and the following remarks. Claims 1-16 and 18-28 remain pending herein. Claims 1, 19 and 27 have been amended hereby.

Summary of the Rejections:

(1) Claims 1-3, 5-11, 14, and 18-28 stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Skelton et al. (U.S. 6,292,692, hereafter "Skelton").

(2) Claims 4 and 12 stand rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over Skelton in view of Rockwell et al. (U.S. 6,141,584, hereafter "Rockwell").

(3) Claims 13 and 15-16 stand rejected under 35 U.S.C. 2 © 103(a) as allegedly being unpatentable over Skelton in view of Powers et al. (U.S. 5,879,374 hereafter "Powers").

Applicants' Traversal:

Traversal of rejections under 35 U.S.C. §102(e):

Base claim 1 has been amended to recite **activating an incident review mode in which the previously recorded ECG data** stored in memory and the currently monitored information are **displayable simultaneously** on the defibrillator screen of the defibrillator while the patient is being monitored by the defibrillator without the need to attach the defibrillator to another external device for display, and said

recorded ECG data also being displayable offline. Support for this change is found in the specification at least at page 4, lines 3-7, and page 4, line 29 to page 5, line 2. A similarly worded amendment was made to base claim 19.

Thus the present invention provides an apparatus and method that permits previously recorded ECG data to be viewed either while the patient is still be monitored and displayed, or offline, without the need to attach the defibrillator to another external device for display. Applicants respectfully submit that Skelton fails to disclose or suggest these claimed features.

Applicants respectfully submit that there is no disclosure in Skelton that the log is even displayable. Applicant respectfully refer to Fig. 6 of Skelton where the "log" area shows keys for "print log", "stop print" , "clear log: and "Exit". Nowhere to be seen is a button that says "Display Log", which is why Skelton has a PCMCIA interface, to connect to external devices. Further, the graphs shown in Fig. 5 of Skelton are other items of the patient being monitored, and they are not a display of previously recorded log/ECG data. Nowhere does Skelton suggest log data is displayable either while the patient is being monitored, or that the data is also displayable online without using an external device.

Thus, it is respectfully submitted that none of the instant claims would have been anticipated by Skelton as this references fails to disclose all of the elements recited by the instant claims.

The Court of Appeals held in *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628,631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987) that:

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.

Accordingly, it is respectfully submitted that all grounds of rejection under 35 U.S.C. §102(e) have been overcome.

Traversal of rejections under 35 U.S.C. §103(a):

It is respectfully submitted that none of the instant claims are anticipated by the combinations of cited references. For example, the inclusion of Rockwell or Power in combination with Skelton still fails to disclose or suggest all the elements of the base claims. Nor is there any motivation or suggestion provided by the combination of references to modify the prior art such that the claimed invention would have been obvious at the time of invention. The suggestion to modify is taught by the Applicants, not by anything found by an artisan in the teachings of the combination of references.

Applicants note that as there is no disclosure or suggestion at least of the simultaneously display of previously recorded data and current monitored data, the instant claims would not have been obvious over the combination of references.

In order to establish a *prima facie* case of obviousness, three basic criteria must be met. First there must be some suggestion or motivation, either in the reference or in the knowledge in the art, to modify the reference. Second there must be a reasonable expectation of success. Third, the prior art reference must teach or suggest all the claim limitations. As held by *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991), the

long-standing principle was affirmed that the teaching or suggestion to make the claimed invention and the reasonable expectation of success must both be found in the prior art, and not in Applicant's disclosure. In the present case, the references, in any combination, cannot be said to provide such disclosure or motivation to the artisan.

Finally, Applicants respectfully submit that the CAFC has also held that:

The mere fact that the prior art
may be modified in the manner suggested
by the Examiner does not make the
modification obvious unless the prior art
suggested the desirability of the modification.

In re Fritch, 973, F.2d 1260,1266, 23 U.S.P.Q. 2d 1780, 1783-84 (Fed. Cir. 1992).

Applicants respectfully submit that nothing can be found in the teachings of the references that suggest the desirability of the presently claimed invention.

Reconsideration and withdrawal of all grounds of rejection under 35 U.S.C. §103(a) are respectfully requested.

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

Tony Piotrowski
Registration No. 42,080



By: Steve Cha
Attorney for Applicant
Registration No. 44,069

Date: June 11, 2003

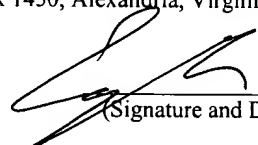
Mail all correspondence to:

Tony Piotrowski, Registration No. 42,080
US PHILIPS CORPORATION
580 White Plains Road
Tarrytown, NY 10591
Phone: (914) 333-9609
Fax: (914) 332-0615

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Steve Cha, Reg. No. 44,069
(Name of Registered Rep.)



6/11/03
(Signature and Date)